IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11462 of 2005

Between:

M/s. Anu Taxi Service, Sector II, Opp: Shopping Complex,
Ukkunagaram, Visakhapatnam - 530 034, Rep. by its Managing Partner,
K. Ramana Naidu, S/o. Bangar Rao, Aged about 38 Years, Occ: Business.

..... PETITIONER

AND

The Assistant Provident Fund Commissioner (Compl), Employees Provident

Fund Organisation, Sub-Regional Office, NAD Post, Visakhapatnam -9.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing the impugned prohibitory order vide proceedings No. AP/VP/30373/CC/52/2005/340 dated 19-4-2005 during the pendency of the review application filed by the Petitioner under Sec. 7-B of the Employees Provident Fund & Miscellaneous Provisions Act, 19562 to review the order passed by the respondent corporation under Sec. 7-A of the Act dated 7-4-2005 is illegal, arbitrary, unjustified and against the provisions of the Employees Provident Fund & Miscellaneous Provisions Act and consequently set aside the same and pass such other and further order or orders

Counsel for the Petitioner:MR.K.LAKSHMAN

Counsel for the Respondent No.: MR.R.N.REDDY

The Court made the following :

ORDER:

This writ petition is filed by the petitioner seeking a writ of M*andamus* declaring the action of the respondent in issuing the impugned prohibitory order dated 19.04.2005 during the pendency of the review application filed by the petitioner under Section 7-B of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 (for short '**the Act'),** as arbitrary, illegal and consequently to set aside the same.

The petitioner is a partnership firm represented by the Managing Partner and running a taxi service.

According to the respondent, a complaint was received from the General Secretary, Steel Plant Contract Labour Union, Visakhapatnam, stating that the petitioner was awarded Ambulance Contract by the Visakhapatnam Steel Plant, which engaged 15 drivers since August, 1999 and was deducting Rs.200/- per month from the wages of the drivers towards Provident Fund, but they are not sure whether the petitioner is depositing the same with the respondent. Therefore, the respondent, after conducting enquiry, passed an order dated 7.4.2005 under Section 7-A of the Act directing the petitioner to pay a sum of Rs.6,85,495/- being the amount due towards the balance of the Provident Fund payable by the petitioner. Aggrieved by the same, the petitioner filed an application under Section 7-B of the Act seeking review of the said order, which was rejected by the respondent. The said review order was unsuccessfully assailed before this Court. After dismissal of the said Writ Petition, the petitioner approached the respondent by filing an application under Section 7-A(4) of the Act seeking to set aside the ex *parte* order, dt. 07.04.2005, which is now pending.

The learned counsel for the petitioner contends that during the pendency of the proceedings, the respondent has issued the impugned proceeding, which is illegal and amounts to violation of the principles of natural justice. Therefore, he sought for a direction.

The said contention of the learned counsel for the petitioner is opposed by the learned counsel appearing for the respondent.

The learned counsel for the respondent contended that the petitioner has got an effective alternative remedy of appeal. Apart from that, the petitioner itself has already filed an application under Section 7-A(4) of the Act seeking to set aside the exparte order. Therefore, it is not a case where the present Writ Petition is to be entertained.

Heard both sides and considered the material on record.

As the petitioner has already approached the original authority by filing an application under Section 7-A(4) of the Act, it would not be appropriate for this court to entertain the present writ petition. The petitioner has also got an effective remedy of appeal under the statute.

Under the above circumstances, the Writ Petition is dismissed without going into the merits of the matter. However, the respondent is directed to dispose of the petition filed under Section 7-A(4) of the Act expeditiously, preferably within a period of four weeks from the date of receipt of a copy of the order.

(S.ANANDA REDDY, J)

Dt: 13.06.2005

bsv

To

1) The Assistant Provident Fund Commissioner (Compl), Employees Provident Fund Organisation, Sub-Regional Office, NAD Post, Visakhapatnam -9.

2) 2 C.D.Copies